

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT JACKSON**

LOUISE GRAVES by and through)
CHUCK GRAVES,)
)
Plaintiff,)
)
)
v.) **No. 1:22-CV-02296-STA-JAY**
) **Judge S. Thomas Anderson**
AUTO OWNERS INSURANCE) **Magistrate Judge Jon A. York**
COMPANY,)
)
Defendant.)

MOTION TO COMPEL

Comes now Defendant, Auto-Owners Insurance Company ("Auto-Owners"), by and through counsel pursuant to Fed. R. Civ. P. 37(a), and hereby moves this Honorable Court for an Order compelling Plaintiff to make full and complete discovery responses to the outstanding and overdue Interrogatories and First Request for Production within seven (7) days of entry of an Order granting this Motion. In support of this Motion, Auto-Owners would show as follows:

1. On February 6, 2023, counsel for Auto-Owners propounded Interrogatories, Requests for Admission and a First Request for Production of Documents upon Plaintiff's counsel via email. (See written discovery attached as **Exhibits 1 - 3**).
2. The Requests for Admission, First Request for Production, and Interrogatories are reasonably calculated to lead to the discovery of admissible evidence and are not otherwise protected based on Plaintiff's lack of response at this point.
3. As of the day this Motion was filed, Plaintiff has not responded to the Requests for Admission, First Request for Production, and Interrogatories.

4. Plaintiff's attorney was advised the discovery responses were overdue by email dated March 10, 2023. (See attached correspondence as **Exhibit 4**).

5. Plaintiff's attorney was advised the discovery responses were again overdue by email communication on April 4, 2023. (See attached correspondence as **Exhibit 5**).

6. Defendant has refused to respond to the outstanding discovery which have been overdue since March 10, 2023.

7. Auto-Owners moves this Honorable Court for an order compelling Plaintiff to make full and complete discovery responses to the Interrogatories and First Request for Production pursuant to Fed. R. Civ. P. 37(a).

8. Auto-Owners also moves this Honorable Court for an order awarding Auto-Owners its reasonable expenses, including attorneys' fees for bringing this Motion due to Plaintiff's refusal to respond to the written discovery pursuant to Fed. R. Civ. P. 37(a)(5).

9. A proposed Order has been submitted pursuant to Local Rule 7.2(a)(1)(A).

WHEREFORE, based upon the foregoing, Defendant requests an order: (1) requiring Plaintiff to fully and completely respond to Auto-Owners' Interrogatories and First Request for Production within seven (7) days of an entry of an Order by this Honorable Court; (2) awarding Auto-Owners its reasonable expenses, including attorneys' fees for bringing this Motion; and (3) any additional relief the Court deems equitable and just, for bringing this Motion.

Respectfully submitted,

s/Matthew B. Rogers
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LOCAL RULE 7.2 CERTIFICATE OF CONSULTATION

**MATTHEW B. ROGERS, COUNSEL FOR AUTO-OWNERS, CERTIFIES THAT HE HAS
CONSULTED WITH DRAYTON BERKLEY, PLAINTIFF'S COUNSEL, ON MARCH 10,
2023 AND APRIL 4, 2023 IN A GOOD FAITH EFFORT TO RESOLVE THE DISCOVERY
DISPUTE AND THAT THOSE EFFORTS HAVE NOT BEEN SUCCESSFUL.**

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April, 2023, a true and correct copy of the foregoing MOTION TO COMPEL was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will receive a copy via U.S. Mail. Parties may access this file through the court's electronic filing system.

Drayton D. Berkley, Esquire
Berkley Law Firm, PLLC
P. O. Box 771048
Memphis, TN 38177

s/Matthew B. Rogers
MATTHEW B. ROGERS

PTC:
MBR:mbr